IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.89 OF 2005
IN
WRIT PETITION NO.3019 OF 1998

Shantabai Vishwanath Patil ... Applicant

Vs.

Bidesh R. Kulkarni ... Respondent

Mr. K.R. Belosey for the applicant.

Mr. S.D. Dharmadhikari for the respondent.

CORAM: SMT. RANJANA DESAI, J.

DATED: 3RD FEBRUARY, 2005.

P.C.:-

1. This civil application is for setting aside the ex-parte order dated 17/12/2004, dismissing Civil Application No.2485 of 2003 for default and also for setting aside the order dated 23/12/2004 dismissing the above writ petition. The petitioner has prayed that Writ Petition No.3019 of 1998 be restored along with ad-interim order dated 6/7/1998 and the petition may be heard on merits.

2. Heard the learned counsel appearing for the parties. Despite strong opposition from the learned counsel for the respondent, I feel that in the interest of justice, abatement needs to be set aside and the petition needs to be restored. Hence, for reasons stated in the civil

application, abatement is set aside. Writ Petition No.3019 of 1998 is restored to file along with ad-interim order dated 6/7/1998. Needless to say that ad-interim order dated 6/7/1998 will operate only if the possession of the suit premises is not handed over.

3. Office is directed to add this writ petition to the final hearing board immediately. Liberty to the petitioner to mention the matter for expeditious hearing after preparing the paper-book.

4. Civil Application is disposed of in the aforestated terms.

(SMT. RANJANA DESAI, J.)